

July 2, 2003 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

03AN0293

Peggy and James Cabaniss

Bermuda Magisterial District  
2906 Woodworth Road

**REQUEST:** A Special Exception to permit the keeping of eight (8) dogs in a Residential (R-7) District.

**RECOMMENDATION**

Recommend denial of this Special Exception for the following reasons:

- A. Special Exception may adversely affect the health, safety or welfare of persons residing on the premises or in the area.
- B. Special Exception may impair the character of the district.
- C. Use may reduce or impair the value of buildings or property in surrounding areas.

**GENERAL INFORMATION**

**Location:**

Property is located at 2906 Woodworth Road. Tax ID 792-668-0802 (Sheet 18).

**Existing Zoning:**

R-7

**Size:**

0.3 acre

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Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-7; Residential  
South - R-7; Residential  
East - R-7; Residential  
West - R-7; Residential

Utilities:

Public water and sewer

General Plan:

(Jefferson Davis Corridor Plan)

Residential  
(2.51 – 4 units per acre)

DISCUSSION

The applicants request a Special Exception to permit the keeping of eight (8) dogs in a Residential (R-7) District.

The applicants provide the following information in support of this request:

This Special Exception will enable us to keep our pets, our children. For the stress, confusion and high blood pressures, they are our therapy. We started with one ShihTzu after we had to put our older one to sleep. Our good friends got us another. Then we adopted one of their mothers. She in turn had puppies and we were unable to part with three (3) of them. While we were shopping for dog food, we saw two (2) puppies that were awfully sick, so we ended up with them. After a long stay with the veterinarian, we were too attached to find homes for them. Please allow our family to stay together. Our yard has a chain link fence around it. The two (2) larger dogs stay outside during the day except in bad weather and at night they stay indoors. The six (6) small ShihTzus stay inside with me during the day. They go outside three (3) to four (4) times daily under my supervision for fifteen (15) to twenty (20) minutes and sleep inside. They do not bark except if someone strange comes in the yard. When the dogs are spoken to they are quiet. We have given our phone number to all of our neighbors and told them to let us know if there are any problems.

Staff notes the Planning Department staff visited the site in response to a complaint. Staff's inspection revealed that the applicants were in violation of the Zoning Ordinance by keeping more

then two (2) adult dogs (private kennel) in a Residential (R-7) District. This request is in response to staff's investigation.

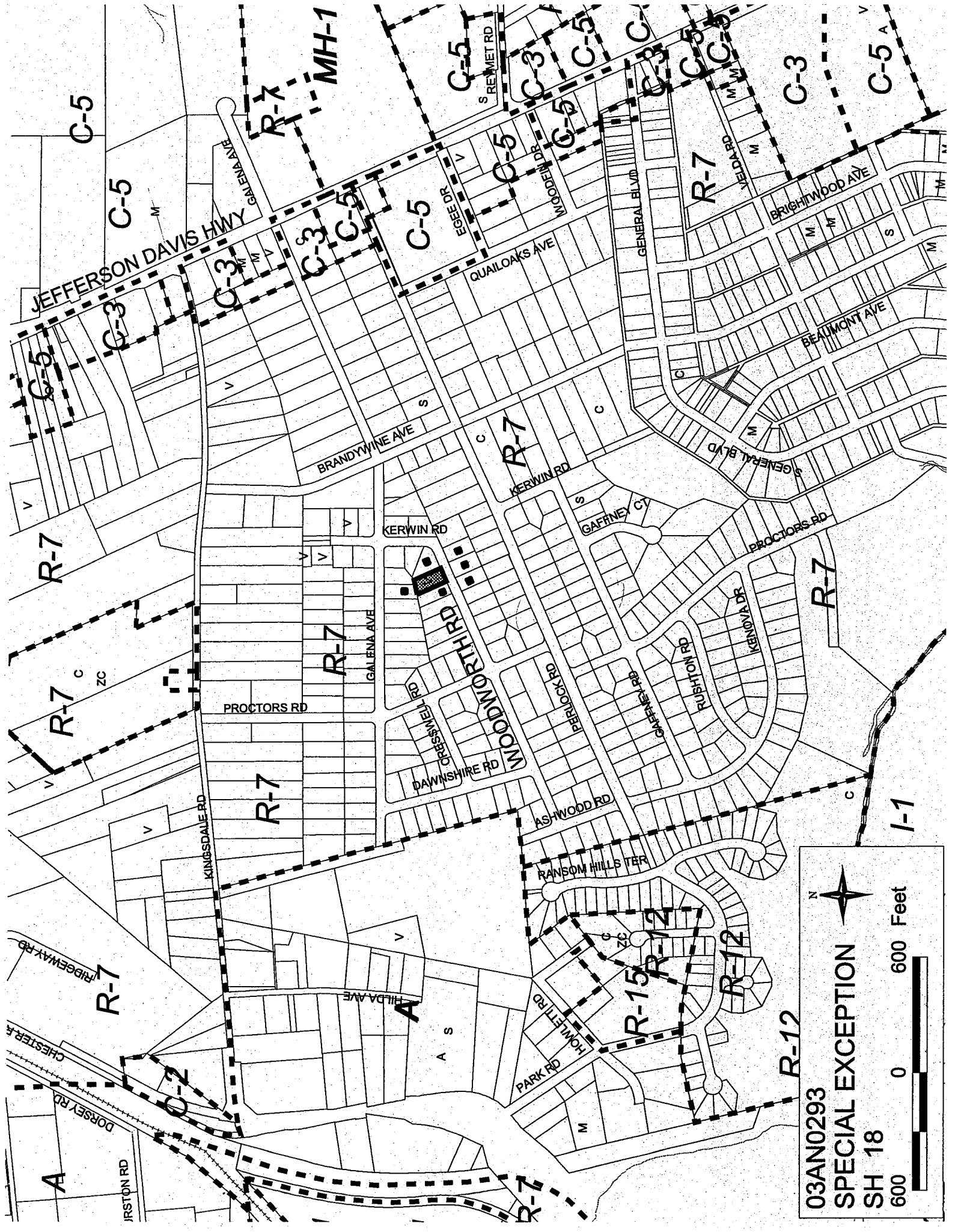
Staff believes that this type of request may have an adverse affect on the character of the area and may adversely affect the welfare of persons residing or working in the area because the noise produced by eight (8) dogs may create a nuisance.

Staff believes that imposing conditions will not mitigate the negative impact that this use may have on this area. Although the yard is adequately maintained and the dogs are confined within a fence, the number of dogs may be a nuisance to adjacent and area properties. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

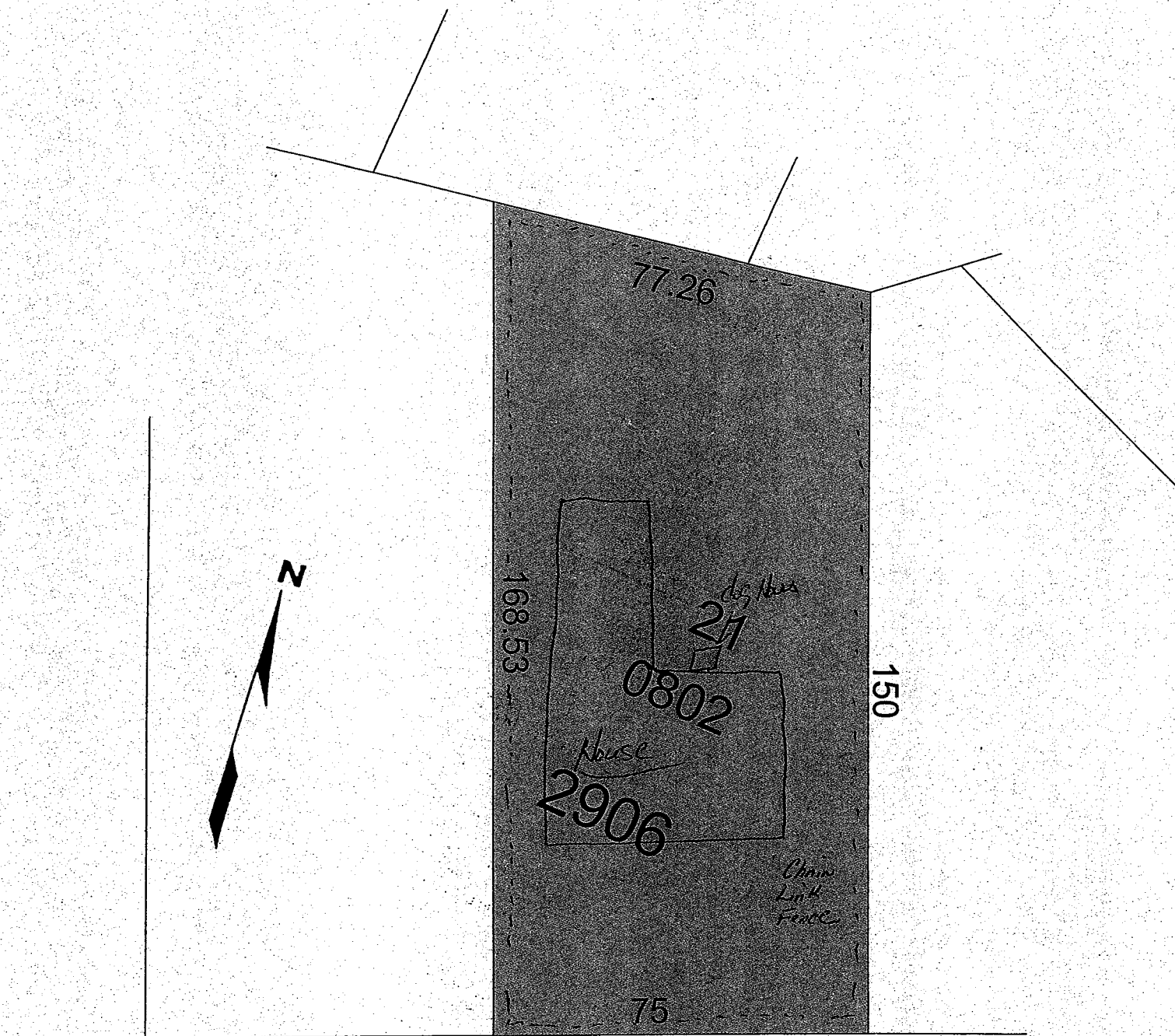
#### CONDITIONS

1. Special Exception shall be granted to and for Peggy and James Cabaniss, exclusively, and shall not be transferable nor run with the land.
2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these eight (8) dogs has not proved a detriment to the adjacent property or the area in general.
3. All dogs shall be confined to the existing dwelling. Whenever the animals are allowed outside the dwelling, they shall be on a leash or within the fenced in yard.
4. Should any one (1) of the dogs be sold, given or pass away, it shall not be replaced.
5. The applicants shall not breed or board dogs on this property.
6. The applicants shall provide a history of each dog, such as age, sex, color and size as well as a photo to the Planning Department within thirty (30) days of approval of the Special Exception.



03AN0293  
SPECIAL EXCEPTION  
SH 18  
600 0 600 Feet

N



03AN0293-1